

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JACKIEJO LOPEZ,
Plaintiff,

v.

CITY OF SOUTH SAN FRANCISCO
POLICE DEPARTMENT,
Defendant.

Case No. [15-cv-02569-SI](#)

**ORDER GRANTING DEFENDANT'S
MOTION FOR REMAND AND
REMANDING CASE TO SAN MATEO
COUNTY SUPERIOR COURT**

Re: Dkt. No. 8

On June 9, 2015, *pro se* plaintiff Jackiejo Lopez removed this case from the Superior Court for the County of San Mateo. The complaint was originally filed on January 11, 2013. Dkt. 1, Ex A. On July 9, 2015, specially appearing defendant City of South San Francisco filed a motion for immediate remand on the ground that the removal is defective because a plaintiff may not remove a case from state court.

The Court agrees with defendant that removal was improper. The removal statute provides, "[e]xcept as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, *may be removed by the defendant or the defendants*, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a) (emphasis added); *see also Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 105-06 (1941) (interpreting language allowing a case to be removed "by the defendant or defendants" in former removal statute 28 U.S.C. § 71 as precluding a plaintiff/cross-defendant from removing an action on the basis of a counterclaim).

Accordingly, the Court GRANTS defendant's motion and REMANDS this case to the San

1 Mateo County Superior Court. All other pending motions are DENIED AS MOOT.

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3 **IT IS SO ORDERED.**

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5 Dated: July 29, 2015

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8 SUSAN ILLSTON
United States District Judge
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